



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 19, 2013

Mr. John P. Beauchamp
General Counsel
Texas Commission on Law Enforcement
6330 East Highway 290, Suite 200
Austin, Texas 78723-1035

OR2013-22182

Dear Mr. Beauchamp:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 509059.

The Texas Commission on Law Enforcement Officer Standards and Education (the "commission") received a request for contract and renewal information and commission training provider evaluation reports pertaining to Lone Star College System or North Harris Montgomery County Community College from specified periods of time and information pertaining to a specified investigation. You state you have released some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.103, 552.107, 552.108, and 552.111 of the Government Code.¹

¹Although you also raise rule 503 of the Texas Rules of Evidence and rule 192.5 of the Texas Rules of Civil Procedure, we note sections 552.111 and 552.107 of the Government Code are the appropriate exceptions to raise for your attorney-client privilege claim and your attorney work product claim, respectively, for information not subject to section 552.022 of the Government Code. *See* Open Records Decision Nos. 677 (2002), 676 at 1-2 (2002).

We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Section 552.108(a) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 is applicable only to records created by an agency, or a portion of an agency, whose primary function is to investigate crimes and enforce criminal laws. *See Open Records Decision Nos. 493 at 2 (1988), 287 (1981)*. Section 552.108 generally does not apply to records created by an agency whose chief function is essentially regulatory in nature. *See Open Records Decision No. 199 (1978)*. For example, an agency that employs peace officers to investigate crime and enforce criminal laws may claim that section 552.108 excepts portions of its records from required disclosure. *See Open Records Decision No. 127 at 8 (1976)* (arson investigation unit of fire department is law enforcement agency). We note the Enforcement Unit of the commission is comprised of commissioned investigators who investigate both administrative and criminal violations of law as it relates to the commission’s mission. *See Occ. Code § 1701.160* (commission may commission certified peace officers as investigators employed by commission for purpose of assisting commission in administering chapter 1701); *see also id.* §§ 1701.551-.553.

You state the commission employs peace officers with full investigative and arrest authority. Further, you state the submitted information relates to an ongoing criminal investigation. Based on this representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the commission may withhold the submitted information under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a large circular flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/tch

Ref: ID# 509059

Enc. Submitted documents

c: Requestor
(w/o enclosures)